IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

C.R. No. 2604 of 2011
Date of decision: 21.4.2011

M/s Noble Enterprises … Petitioner

versus

Raj Pal Chopra and others … Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND KUMAR

Present: Mr. Rajinder Sharma, Advocate,
for the petitioner

...

ARVIND KUMAR, J:

The present petitioner is one of the defendants in the suit for recovery filed by the respondent-plaintiffs. He is aggrieved with the order dated 14.2.2011 by virtue of which the suit which was earlier dismissed in defaut, has now been restored to its original number.

The facts, in brief, are that initially, the suit was dismissed in default on 29.7.1997. Restoration application was filed but the same was dismissed on 25.11.2004 on a technical ground that the same should have been filed under Order IX rule 9, Code of Civil Procedure, and not under Rule 4 of the Code of Civil Procedure. Plaintiffs filed another application on 22.12.2004 along with an application under Section 5 of the Limitation Act for the condonation of delay and vide order dated 5.9.2007 delay was condoned. Now vide the impugned order, the suit has been restored to its original number, as stated above. Hence, the present revision petition.

Heard.

The facts of the case indicate that right from the beginning, plaintiffs had been pursuing for restoration of the suit but they were non-suited on a technical ground. Unless there is a contumacious negligence on the part of the party concerned, no one should be denied hearing on merits. As the impugned order has been passed after

appreciating the entire evidence led in support of the application, there is no infirmity in the same. The revision petition is dismissed.

April 21, 2011 (ARVIND KUMAR)
JS JUDGE